

## **REMARKS/ARGUMENTS**

### **ELECTIONS/RESTRICTIONS – 35 USC § 121**

The Examiner has required that prosecution of the subject case be restricted to one of the following inventions: Group I, claims 1-12, drawn to a method for preparing functional polymer; Group II, claims 13-19, drawn to a functional polymer; or Group III, claim 20, drawn to a vulcanate.

In an effort to further prosecution at this time, the Applicants hereby affirm the provisional election made by telephone interview on March 19, 2009, with traverse, to prosecute Group I, claims 1-12, drawn to a method for preparing functionalized polymers. The non-elected claims have been cancelled.

### **CLAIM REJECTIONS – 35 USC § 112**

Claim 4 has been rejected under 35 USC § 112. Claim 4 has been amended to delete reference to the “vulcanizate of claim 2”.

### **CLAIM REJECTIONS – 35 USC § 102 & 103**

Claims 1-3 and 11-12 have been rejected under 35 USC 102(b) as being anticipated by Ozawa et al. (PCT Publication WO 01/34658). Claim 5 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Ozawa (PCT Publication WO 01/34658). Claims 4 and 6-7 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Ozawa, in view of Hergenrother (EP 0 801 078). Claim 10 has further been rejected under 35 U.S.C. § 103(a) as being unpatentable over Ozawa and Hergenrother, in view of Vitus et al., (US Pat. No. 4,409,368).

Reconsideration is respectfully requested. Ozawa is only concerned with functionalizing polymer prepared by coordination catalysis. In fact, Ozawa carefully explains in the “Background of the Invention” differences that exist between anionic polymerization and coordination catalysis. Those skilled in the art understand that these methods and mechanisms for polymerizing monomer are entirely distinct. Moreover,

those skilled in the art understand that the ability to react species such as functionalizing agents with the polymers prepared by these two mechanisms of polymerization are entirely distinct and unpredictable. Indeed, the mere fact that one can react a particular functionalizing agent with a polymer prepared by anionic polymerization offers no guidance or predictability as to whether the same functionalizing agent can be reacted with a polymer prepared by coordination catalysis. The opposite is also true.

There is no evidence in the record to the contrary. Indeed, the Office Action simply concludes—albeit incorrectly—that Ozawa teaches anionic polymerization. It does not.

Inasmuch as each of the rejections set forth in the Office Action rely on Ozawa—and more specifically rely on a belief that Ozawa teaches anionic living polymers—Applicants maintain that the foregoing arguments obviate all of the pending rejections.

**CONCLUSION**

It is respectfully submitted that all pending claims are in condition for allowance. Accordingly, Applicants request early and favorable reconsideration in the form of a Notice of Allowance.

If necessary to affect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to affect a timely response. Please charge any deficiency in fees or credit any overpayments to Deposit Account No. 06-0925 (Docket #: P02074US2A(P348)).

Respectfully submitted,

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Date

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